

§ 250.9

section V, paragraph [41(d)] of the Defense Industrial Security Manual are met.

§ 250.9 Notice to accompany the dissemination of export-controlled technical data.

(a) Export of information contained herein, which includes, in some circumstances, release to foreign nationals within the United States, without first obtaining approval or license from the Department of State for items controlled by the International Traffic in Arms Regulations (ITAR), or the Department of Commerce for items controlled by the Export Administration Regulations (EAR), may constitute a violation of law.

(b) Under 22 U.S.C. 2778 the penalty for unlawful export of items or information controlled under the ITAR is up to 2 years imprisonment, or a fine of \$100,000, or both. Under 50 U.S.C., appendix 2410, the penalty for unlawful export of items or information controlled under the EAR is a fine of up to \$1,000,000, or five times the value of the exports, whichever is greater; or for an individual, imprisonment of up to 10 years, or a fine of up to \$250,000, or both.

(c) In accordance with your certification that establishes you as a "qualified U.S. contractor," unauthorized dissemination of this information is prohibited and may result in disqualification as a qualified U.S. contractor, and may be considered in determining your eligibility for future contracts with the Department of Defense.

(d) The U.S. Government assumes no liability for direct patent infringement, or contributory patent infringement or misuse of technical data.

(e) The U.S. Government does not warrant the adequacy, accuracy, currency, or completeness of the technical data.

(f) The U.S. Government assumes no liability for loss, damage, or injury resulting from manufacture or use for any purpose of any product, article, system, or material involving reliance upon any or all technical data furnished in response to the request for technical data.

(g) If the technical data furnished by the Government will be used for commercial manufacturing or other profit

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potential, a license for such use may be necessary. Any payments made in support of the request for data do not include or involve any license rights.

(h) A copy of this notice shall be provided with any partial or complete reproduction of these data that are provided to qualified U.S. contractors.

PART 252—DEPARTMENT OF DEFENSE OFFSHORE MILITARY ACTIVITIES PROGRAM

Sec.

252.1 Reissuance and purpose.

252.2 Applicability and scope.

252.3 Definitions.

252.4 Policy.

252.5 Responsibilities.

AUTHORITY: 5 U.S.C. 301.

SOURCE: 52 FR 39222, Oct. 21, 1987, unless otherwise noted.

§ 252.1 Reissuance and purpose.

This part reissues 32 CFR part 252 to update policies and procedures for the use of offshore areas by the Department of Defense. It shall serve as the basis for a comprehensive Offshore Military Activities Program.

§ 252.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the Organization of the Joint Chiefs of Staff (OJCS), and the Defense Agencies (hereafter referred to collectively as "DoD Components").

(b) Concerns the use of offshore areas for military purposes. It does not limit the responsibilities of the Secretary of the Navy assigned under 33 U.S.C. 1101 *et seq.*

§ 252.3 Definitions.

Offshore areas. The submerged land areas defined in 43 U.S.C. 1301 *et seq.* and 43 U.S.C. 1331 *et seq.* and the adjacent waters affected by the use of those submerged lands.

Offshore Military Activities Program. The program established to implement DoD policies and procedures for those activities, operations, and installations that require an offshore environment and that may impact on offshore areas.

Outer Continental Shelf. All submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of 43 U.S.C. 1301 *et seq.*, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

State-owned Offshore Submerged Lands. Coastal portions of lands beneath navigable waters, as defined in section 2 of the Submerged Lands Act.

§ 252.4 Policy.

(a) It is DoD policy to support the principle that lands composing the Outer Continental Shelf and state-owned offshore areas shall be used in the best interest of the United States. Therefore, it is DoD policy for the use of offshore areas to be shared with non-military interests whenever they can be accommodated.

(b) The Secretaries of Defense and the Interior have agreed on procedures for resolving conflicts over joint use of offshore areas for military and mineral exploration or developmental purposes. In carrying out negotiations with elements of the Department of the Interior (DoI), the Department of Defense shall be guided by this agreement when appropriate.

(c) If a coastal state determines that the mineral potential of off-shore areas being used or proposed to be used for military purposes must be explored or developed, DoD shall endeavor to accommodate joint military and commercial use of those areas. If compatible joint use is not economically or militarily feasible, DoD shall seek agreement with the coastal state to exclude conflict areas from its leasing program.

§ 252.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Production and Logistics)* (ASD(P&L)) shall maintain a comprehensive program for the military use of the offshore environment and provide related direction and policy to DoD Components.

(b) The *Secretary of the Army* shall provide notices to the ASD(A&L), to affected military installations and activities, and to the Director of the Defense Mapping Agency Hydrographic/

Topographic Center of potential obstructions and hazards to navigation as stated in the Rivers and Harbors Appropriation Act, of proposed permits for obstructions to be located on the Outer Continental Shelf under 43 U.S.C. 1331 *et seq.*, as amended, and of proposed permits for artificial reefs under the National Fishing Enhancement Act of 1984 to ensure compatibility with the Offshore Military Activities Program.

(c) The *Secretary of the Navy* shall:

(1) Act as DoD Executive Agent for outer continental shelf matters and carry out responsibilities assigned to the Executive Agent in the Agreement.

(2) Conduct continuing liaison with DoI, appropriate coastal states, and the ASD(P&L) to ensure compatibility between the DoD Offshore Military Activities Program and the related plans and programs of DoI and coastal states.

(3) Inform concerned DoD Components of new developments in the DOI's, states', and industry's mineral leasing plans that may affect present or potential military interests in offshore areas.

(4) Represent the Department of Defense on the Secretary of the Interior's Outer Continental Shelf Advisory Board.

(d) The *Secretary of the Air Force* shall, for those offshore areas under his control, conduct continuing liaison with the DoI and coastal states and enter into agreements necessary to ensure compatibility between military activities and relevant plans and programs of the DoI and coastal states.

(e) *Heads of DoD Components* shall:

(1) Review proposed DOI's and states' mineral leasing plans and inform the Executive Agent of proposed activities that could be incompatible with military missions. When joint use is feasible, the Heads shall recommend conditions and stipulations that should be imposed in leases to ensure the integrity of military missions and otherwise protect the interests of the United States against claims arising out of damage to property or personal injury.

(2) Establish and maintain lines of communication and coordination to ensure that the ASD(P&L) and the Executive Agent are fully aware of plans and programs involving offshore areas.

(3) Review notices referred to in §252.5(b) and notify the Army Chief of Engineers if proposed actions are incompatible with offshore military activities.

(4) Inform the Army Chief of Engineers and the Executive Agent of any significant change in the status of offshore ranges, restricted areas, or operating areas.

(5) Comply with the provisions of the Coastal Zone Management Act.

(6) Conduct other activities related to offshore areas as requested by the ASD(A&L).

PART 253—ASSIGNMENT OF AMERICAN NATIONAL RED CROSS AND UNITED SERVICE ORGANIZATIONS, INC., EMPLOYEES TO DUTY WITH THE MILITARY SERVICES

Sec.

253.1 Reissuance and purpose.

253.2 Applicability and scope.

253.3 Definition.

253.4 Policy.

253.5 Responsibilities.

253.6 Procedures.

AUTHORITY: Pub. L. 83-131, 5 U.S.C. 301.

SOURCE: 48 FR 35644, Aug. 5, 1983, unless otherwise noted.

§ 253.1 Reissuance and purpose.

This rule reissues this part to update policy and procedures governing the investigation of American National Red Cross (hereafter "Red Cross") employees and United Service Organizations, Inc. (USO), staff for the purpose of determining the security acceptability of such personnel for assignment to duty with the Military Services.

§ 253.2 Applicability and scope.

(a) This rule applies to the Office of the Secretary of Defense, the Military Departments, the Unified and Specified Commands, and the Defense Investigative Service (hereafter referred to as "DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

(b) This rule does not apply to U.S. citizens or foreign nationals who are available locally at overseas locations

for temporary or part-time employment with the Red Cross or the USO. Policy and procedures governing investigation and security acceptability of locally hired employees shall be determined by the Military Department concerned.

§ 253.3 Definition.

Employee. Any full-time, salaried individual serving with or employed by the Red Cross or the USO who is subject to assignment for overseas duty with the Military Services.

§ 253.4 Policy.

(a) It is the policy of the Department of Defense that an employee shall be accepted for assignment to duty with the Military Services overseas only after it first has been determined, based upon an appropriate personnel security investigation, that such acceptance for assignment is clearly consistent with the national interest.

(b) The standard and criteria for determining the security acceptability of an employee for assignment or continuation of assignment with the Military Services overseas shall be identical to those established for making security clearance determinations for personnel employed in private industry under §§ 155.4 and 155.5 of this title.

§ 253.5 Responsibilities.

(a) The *Deputy Under Secretary of Defense for Policy*, or designee, the *Director, Security Plans and Programs*, shall serve as the primary contact between the Department of Defense and the Red Cross and USO for all matters relating to the policy and procedures prescribed herein.

(b) *Heads of DoD Components* shall comply with the provisions of this rule.

§ 253.6 Procedures.

(a) Employees who are U.S. citizens shall have been the subject of a national agency check (NAC), completed with favorable results, before being nominated for assignment with the Military Services overseas.

(b) Employees who are not U.S. citizens shall have been the subject of a background investigation (BI), completed with favorable results, before